

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant and Owner: Brenna and Stephen Kucinski
89 North East Street, Amherst, MA 01002

Date Application filed with the Town Clerk: April 30, 2008

Nature of request: Petitioner seeks to renew Special Permit ZBA FY2006-00043 for a flag lot, under Section 6.3 of the Zoning Bylaw

Location of property: North East Street (Map 15A, Parcel 34, R-N Zoning District)

Legal notice: Published in the Daily Hampshire Gazette on May 7 and 14, 2008, and sent to abutters on May 6, 2008.

Board members: Thomas Simpson, Barbara Ford and Eric Beal

Submissions: The applicants submitted a site plan showing the design of the driveway and location of the house for the flag lot, drawn by Berkshire Design Group, Inc, dated 11/08/06 and approved by the Board at a public meeting on November 16, 2006.

Site Visit: None was scheduled since a Special Permit for the flag lot had been approved twice before. Individual members of the Board visited the site on their own.

Public Hearing: June 17, 2008

Prior to opening the hearing, Mr. Simpson stated that he had served on the Zoning Board of Appeals with Ms. Kucinski. Ms. Ford stated that she had served on the Planning Board with Ms. Kucinski. Both said that their past association with the applicant would not influence their judgment in this case.

Ms. Kucinski spoke to the application and gave the following information:

- The applicants are applying for renewal of their Special Permit for a flag lot;
- On November 16, 2007, the ZBA gave approval for the final site plan showing the location of the house and design of the driveway;
- A final grading and drainage plan for the driveway was submitted to the Board in 2006;
- A drainage study had been done and approved by the Town Engineer;
- In January, 2007, the applicants put in the culvert and driveway to the other side of the stream;
- The driveway is gravel, 12 feet wide and has 2 foot aprons on each side;
- The Conservation Commission had issued an Order of Conditions for construction of the driveway, permitting the stream crossing; the Order was about to expire in 2007, so the driveway was partially constructed in order to avoid expiration;
- The lot will be developed for a single-family house;
-

- The applicants would like to renew the Special Permit with the same conditions as were contained in the previous Special Permit.

No members of the public spoke.

Mr. Simpson made a motion to close the public hearing. Ms. Ford seconded the motion. The Board voted unanimously to close the public hearing.

Public Meeting – Discussion

The Board that the conditions and findings from the previous permit were still appropriate.

Public Meeting – Findings:

The Board finds under Section 6.3 of the Zoning Bylaw, Flag Lots, that:

- 6.32 – The building area of the proposed lot is more than double that required in an R-N zoning district.
- 6.33 – The access strip or pole is 40.23 feet, meeting the required minimum street frontage of 40 feet. The access strip does not have a change in direction.
 - 6.330 – The proposed flag lot is not within any overlay district and will not have a detrimental impact on any such district.
 - 6.331 – The access strip of more than 400 feet is allowable, if it will not create an undue safety hazard. The proposed lot has good visibility and access to a fire hydrant is nearby.
 - 6.332 – No potential substantial adverse impact on environmentally sensitive areas has been identified as a result of the proposed lot.
 - 6.333 – The natural features of the farm and the view of the Pelham hills to the east will not be removed, destroyed or obstructed.
 - 6.335 – There will be no known impact on historical, archeological and/or cultural resources of the area.
- 6.36 – There is only one flag lot proposed.
- 6.37 – Access to the lot is unimpeded, and can be designed to not exceed 5% grade within 50 feet of the street line, under the provisions of Bylaw Section 7.7

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

- 10.380 – The proposal is suitably located in a neighborhood of single family homes and open farmland. It is just north of an existing Village Center.
- 10.381 – The proposal will not interfere with the workings of the surrounding farmland, other residences and uses permitted by right in the same zoning district.
- 10.382 – As a single family residence, the proposal will not constitute a nuisance under this section.
- 10.383 – The proposed single family house location is removed from the road and other homes, and hence will not be an inconvenience or hazard to abutters or vehicles on North East Street.
- 10.384 – The proposed size of the lot and width of access strip will allow for proper operation of a residence..
- 10.386 – No signs are included with the proposal, and parking will be provided as shown on an approved site plan in conformance with Articles 7 and 8 of the Bylaw.
- 10.387 & 10.389 – The proposed driveway will provide safe vehicular and pedestrian movement within the site and in relation to adjacent streets and property, because a site plan for the house and driveway has been approved by the Board prior to a building permit

being issued. In addition, permits from the Board of Health will be required for any on-site septic or water supply if the town water/sewer facilities will not be used.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw in that it creates additional housing while protecting active farmland and open space. The proposal protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the application with the same conditions as the previous Special Permit ZBA FY2006-00043. Mr. Beal seconded the motion.

For all the reasons stated above the Board VOTED unanimously to approve the application with conditions to renew Special Permit ZBA FY2006-00043, for a flag lot, as applied for by Brenna and Stephen Kucinski, at North East Street, (Map 15A, Parcels 34, R-N Zone)

THOMAS SIMPSON

BARBARA FORD

ERIC BEAL

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.

NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to renew Special Permit ZBA FY2006-00043 for a flag lot, as applied for by Brenna and Stephen Kucinski, at North East Street, (Map 15A, Parcel 34, R-N Zone) with the following conditions:

1. The petitioners shall build according to the Site Plan approved by the Board at a public meeting on November 16, 2006 showing:
 - a. The final location of the house and driveway;
 - b. The final grading and drainage plan for the driveway.
2. The house shall be single family only.
3. The completed driveway shall be at least 12 feet wide with clear shoulders of two feet on either side for snow storage and shall be capable of supporting emergency vehicles.
4. This application is subject to Section 14 of the Zoning Bylaw, Phased Growth. The Zoning Board of Appeals has assigned a development authorization date of August, 2008.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE